THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NOS.13440 AND 13754 OF 2005

DISPOSED OF ON 07-12-2005

COMMON ORDER:

BETWEEN:

WP.NO.13440 OF 2005

BHAGAWAN SRI VENKAIAH SWAMY
HUMANITARIAN MISSION GOLAGAMUDI
VILLAGE AND POST, VENKATACHALAM
MANDAL, NELLORE DISTRICT., REGD.NO.23/1981,
REP. BY ADHOC COMMITTEE OF RECEIVERS
APPOINTED BY THE DISTRICT COURT,
NELLORE, IN O.S.1/1995
P.SESHACHALAM AND OTHERS … PETITIONERS

AND

THE SPECIAL CHIEF SECRETARY &
CHIEF COMMISSIONER OF LAND
ADMINISTRATION(REVENUE) AND
OTHERS … RESPONDENTS

W.P.NO.13754 OF 2005

BHAGWAN SRI VENKAIAH SWAMY
UBHAYAKARTALA COMMITTEE,

GOLAGAMUDI A REGISTERED SOCIETY

BEARING NO.620/04 REPRESENTED BY

ITS PRESIDENT TIRUPATI BALARAMAIAH

S/O.JANAKI RAMAIAH, AGED 70 YEARS

HAVING ITS OFFICE AT D.NO.16-1891/2,

SRINIVASA AGRAHARAM, MINI BYE PASS ROAD

NELLORE TOWN … PETITIONER

AND

THE SPECIAL CHIEF SECRETARY &

CHIEF COMMISSIONER OF LAND

ADMINISTRATION (REVENUE), HYD.

AND OTHERS … RESPONDENTS

THE HONOURABLE SRI JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NOS.13440 AND 13754 OF 2005

COMMON ORDER :

1. Proceedings No.SPL.B1/290/ 2005, DT:21.4.2005 of the Chief Commissioner of Land Administration, A.P. Hyderabad-Ist respondent according sanction for alienation of 53 cents of land in S.No.445/1 A1 of Golagamudi village, Venkatachalam Mandal, Nellore District in favour of Sri.Darga Swamy-5th respondent are challenged in these two writ petitions.

2. W.P.No.13440 of 2005 is filed by Bhagawan Sri Venkaiah Swamy Humanitarian Mission Golagamudi village, Venkatachalam Mandal, Nellore District (for short Society). Regd.No.23/1981, rep. by Adhoc Committee of receivers appointed by the District Court, Nellore, in O.S.1/1995. W.P.No.13754 of 2005 is filed by Bhagwan Sri Venkaiah Swamy Ubhayakartala Committee (for short Committee) Golagamudi a registered society bearing No.620/04 represented by its president Tirupati Balaramaiah.

3. The facts of the case leading to filing of these two writ petitions, in brief, are:

The petitioner-society, a society registered under Societies Registration Act of 1860, is to maintain and administer Bhagavan Sri Venkaiah Swamy Ashram, at Golagamudi. Certain disputes arose relating to the maintenance of the Ashram and a suit being O.S.No.1/95 on the file of District Court, Nellore came to be filed and three advocate receivers came to be appointed to manage the affairs of the Ashram with Principal Junior Civil Judge, Nellore as Administrative Officer. The Ashram is in an extent of Ac.15.00 comprising S.Nos.445/2, 445/1A, 1B, 1D, 444/2, 444/4, 449/1. The petitioner-Society has made an application to the Gram Panchayat and Revenue officials for allotment of land in S.Nos.444, 445, 499, 54, 59 of Golagamudi village at market value. The Gram Panchayat passed resolution on 16.9.1986 for change of nature of the land from “Thopu Poramboke” to “Assessed waste” to consider the proposal for alienation of the land in favour of the petitioner-society. The Mandal Revenue Officer inspected the land and submitted a report to the District Collector. Notice in Form No.1 came to be published in the village calling for objections on 22.5.1980. No objections were received from any quarter. A notification was published u/s 67(2) of A.P.Panchayat Raj Act excluding the lands from the control of Gram Panchayat for the purpose of alienation of the same for the development of the petitioner-Society. The Mandal Revenue Officer recommended alienation of the land in favour of the Society @ Rs.3,600/- per acre in his report dated 20.3.1991. Since there was no action by the revenue authorities subsequent to the report of the Mandal Revenue Officer, a writ petition being W.P.No.34167 of 1997 was filed by the petitioner-society seeking a direction to the authorities to

consider grant of Ac.24.39 cents. Receivers of the petitioner-society submitted number of representations seeking allotment of Ac.50-00 cents of land at market value to provide amenities to pilgrims and for charitable activities. 5th respondent who hails from Kadapa District offered 20 percent of cost for the construction of Kalyana Mandapam. The adhoc committee of the petitioners Society obtained necessary permission from the District Court, Nellore to construct the Kalyana Mandapam by spending 80 percent from Ashram funds and 20 percent contribution from Dharga Swamy-5th respondent. A foundation stone was laid on 26.11.2001 near the Ashram. The 5th respondent claimed the management of the Kalyana Mandapam. The management of the petitioner-Society did not agree the claim and consequently 5th respondent withdrew his 20 percent contribution. 5th respondent made his efforts to get the land comprising S.No.445 wherein the main Ashram is situated in his favour. Having come to know the efforts of 5th respondent, the petitioner-society submitted representations resisting the allotment of land in his favour. Without considering the claim of the petitioner-Society for allotment of land which is in its possession, the revenue authorities processed the application of 5th respondent and ultimately proceedings came to be issued according sanction for allotment 53 cents of land to the 5th respondent For better appreciation of the grievance of the petitioners, I deem it appropriate to refer paras 8 and 9 of the affidavit in W.P.No.13440 of 2005, which read as follows:

" 8. I submit that the MRO at midnight of 9/10-6-2005 has sent a proclainer to form a road and cut the trees on information we rushed to the MRO to question his high handed action but he was not available. The villagers and devotees did not allow the high handed action. Immediately we sent a telegram to the District Collector followed by a representation for immediate action but he has not taken any action. While so, on 11.6.2005 the MRO, the Circle Inspector of Police, Nellore rural, the SHO Venkatachalam along with 4 constables, the MRO of Indukurpet Sri.Sreenivasulu Reddy who is devotee of Dharga Swamy and one Chandrasekhar Reddy another devotee tried to take forceful possession of the land. I submit that the action of the respondents is highhanded and unlawful. The Ashram is in possession of the land for the last 20 years paying cist. Its possession is also recorded in the pahanees. The proceedings for alienation of land in favour of the petitioner are pending and the Writ petition is also pending. Inspite of the same the respondents are behaving in a high handed manner

against a religious institution. Under these circumstances we were constrained to file a W.P.No.12569 of 2005 in the Hon'ble Court challenging the high handed action. This Hon'ble Court admitted the W.P. and passed interim orders on 14.6.2005 in WPMP.No.15977 of 2005 directing the respondents not to interfere with the petitioners possession.

9. I submit that admittedly the petitioner is in possession and enjoyment of the land in Sy.No.445/1A for the last 20 years. The main Ashram is situated in this land. The adangals show the possession of the petitioner. The application of the petitioner was favourably considered by the Gram Panchayat and passed unanimous resolution in favour of the petitioner. The notification under Section 67(2) of the Gram Panchayat Act was also issued for the purpose of the petitioner only. I submit that as per BS.0-26 para 5 the petitioner application as old occupant has to be considered under para-7 of B.S.)-15."

4. The official respondents i.e. R1 to R4 filed counter affidavit. 5th respondent also filed separate counter affidavit.

5. The counter of R1 to R4, in brief, is :

The Ashramam of Bhavan Sri Venkaiah Swamy is located in S.No.445/2. The Administrative Office and other constructions viz., Dining hall, kitchen etc. are located in S.No.445/3. The entire land under the possession of Bhagvan Sri.Venkaiah Swamy Humanitarian Mission, Golagamudi H/o Anikepalli is classified as Assessed Waste Dry for which Government is the title holder. The Petitioners-Society submitted an application for allotment of land. The proposals sent by the then MRO came to be returned by the District Collector, Nellore and thereafter the Society never submitted revised proposals. Subsequently shopping complex, lodging and residential houses came to be constructed by private persons by encroaching the land. The society sought allotment of Ac.8-48 cents in S.No.445 of Golagamudi village, which is not found to be feasible because of part of it forming part of the road from Nellore to Anikepalli etc. It is stated in para 4 of the counter affidavit as follows:

" 4. …The Ashram claims entire land measuring Ac.8.48 cents in Sy.No.445 of Golagamudi H/o Anikepalli village, but it is not possible to the respondents to alienate the entire land in Sy.No.445 because a road from nellore to Anikepalli is passing in an extent of Ac.0.83 in

Sy.No.445/1B. A temple of lord Sri.Anjaneya Swamy which is in a plan marked area is located (encroachment) in an extent of Ac.0.06 cents in Sy.No.445/1A2. A temple of lord Sri.Subrahmanya Swamy is located (encroachment) in an extent of Ac.0.02 in Sy.No.445/1A2 and an extent of Ac.0.53 was already alienated to 5th respondent on payment of market value of Rs.1,06,000/- for construction of Sri.Darbar Sai Anantha Kalyana Mandapam. These extents have to be excluded and the balance land in sy.No.445 may be taken into consideration for alienation at the time of initiating fresh alienation proposals in favour of Bhagavan Sri Venkaiah Swamy Ashramam. A foundation stone was laid on 26.11.2001 for construction of Sri.Darbar Sai Anantha Kalyana Mandapam by the 5th respondent in the land measuring an extent of Ac.0.53 comprised by S.No.445/1A1 in the presence of the then Administrative Officer and the Members of Adhoc Committee of Receivers."

It is further stated in the counter affidavit that the petitioner-society filed a representation opposing the allotment of 53 cents to 5th respondent. The District Collector finding no substance in the objections raised by the petitioner-Society sent proposals for allotment of 53 cents of land in S.No. 445/1A-1 to 5th respondent on market value. Ultimately, the proceedings impugned in the writ petition came to be issued by the 1st respondent. It is specifically asserted in the counter affidavit that 5th respondent has been in possession of 53 cents in S.No.445/1A-1 and the same has been allotted to him at market value under the proceedings impugned in the writ petition.

6. 5th respondent filed counter affidavit contending that the land in his possession came to be allotted under the proceedings impugned in the writ petition at market value and the value has been paid by him. It is suffice to refer para 8 of the counter affidavit and it is thus:

" 8. As the site meant for the construction of the Kalyana Mandapam was Government land, I applied to the Government for allotment of the same at market rates vide application dt.4.5.2002. The MRO, Venkatachalam inspected the said land situated at S.No.445/1A of

Golagamudi village, Anakapalle Panchayat and sent a primary report to the RDO, Venkatachalam recommending the case for allotment vide proceedings dt.21.5.2002. The said report was forwarded to the District Collector vide proceedings dt.27.5.2002 by the RDO recommending allotment of the land. The District Collector, Nellore having been satisfied with the primary report of the MRO directed the MRO, Venkatachalam through RDO, Venkatachalam to send alienation proposals for Ac.0.53 cents of land situated in Sy.No.445/1A of Golagamudi village vide proceedings dt.4.6.2004. As directed by the District Collector, the MRO took steps in that regard and in view of the same on 2.8.2004 A1 notice was issued by the Panchayat Secretary of Anakapally village calling for objections against the proposed alienation and as no-objections were received, the MRO, Venkatachalam submitted a report to that effect. As the said S.Nos.445/1A contained a total extent of Ac.3.64 cents of land, the land was sub-divided into 445/1A1 (Ac.0.53 cents) and 445/1A2 (Ac.3.11 cents). After completion of the said proceedings the RDO, Venkatachalam vide proceedings dt.28.9.2004 while recommending alienation of the said land forwarded the report submitted by the MRO, Venkatachalam in that regard fixing the market value of the land proposed to be alienated at Rs.66,000/- per acre. The District Collector, Nellore after being satisfied with the whole exercise, recommended the alienation of the said land to me at market value of Rs.66,000/- per acre to the Chief Commissioner, Land Administration, hyderabad vide proceedings dt.17.2.2005. The CCLA after thoroughly examining the proposal and the records submitted in that behalf including the resolution of the Gram Panchayat dt.2.1.2005, while revising and fixing the market value for the said land at Rs.2.00 lakhs per acre, accorded sanction for alienation vide proceedings dt.21.5.2005. In pursuance of the orders of the CCLA, an amount of Rs.1,06,000/- towards full sale consideration of Ac.0.53 cents of land situated in Sy.No.445/1A1 of Golagamudi village of Anakapalle Panchayat was deposited with the Revenue authorities on 9.5.2005 and on 28.5.2005 the possession of the said land was formally handed over to me and a certificate of handing over the possession of an even date was also issued to me. On the same day construction of Kalyana Mandapam was commenced."

7. The petitioner-society filed reply affidavits. It is stated in the reply affidavit dated 16-08-2005 that one Srinivasul Reddy, MRO who is the follower of 5th respondent has managed the entire scene and got the alienation proposals processed in favour of 5th respondent.

8. Heard Sri.M.P.Chandramouli, learned counsel appearing for the petitioner-Society, Sri.P.Sridhar Reddy, learned counsel appearing for the petitioner-Committee; learned Government Pleader for Assignment appearing on behalf of respondents 1 to 4 and Sri C.V.Nagarjuna Reddy, learned counsel for 5th respondent in both the writ petitions.

9. Learned counsel appearing for the petitioner-society submits that the petitioner-society has been in occupation of the entire extent in S.No.445 and the application of the petitioner-society being prior to that of 5th respondent, allotment of land to 5th respondent without considering the application of the petitioner-society is against the A.P. Board Standing Orders. He further submits that 5th respondent is not in possession of the land which has been allotted to him under the proceedings impugned in the writ petition. A further submission has been made that a report filed by the MRO in the year 1993 clearly shows that the petitioner-society was in possession of the land in question and thus the subsequent report sent by the MRO is only to suit 5th respondent's version. Yet another submission has been made that the Gram Panchayat passed resolutions on 16.9.1986 for change of the nature of the land from "Topu Poramboku" to assessed waste for the purpose of allotting the same to the petitioner society and thus any recommendation made by the revenue authorities for allotment of any part of the land in favour of 5th respondent is against the purpose for which the change of land has been effected. During the course of arguments, he refers the application submitted by the petitioner society and the notification issued under section 67(2) of A.P.Gram Panchayat Act and the rough sketch of the land showing the various structures therein.

10. Learned counsel appearing for the petitioner-Committee argued almost in same lines as that of petitioner-society and, therefore, his contentions need no elaboration.

11. Learned Government Pleader appearing for the respondent Nos.1 to 4 submits that the application of 5th respondent has been considered basing on the resolution passed by Gram Panchayat as well as the report of the Mandal Revenue Officer apart from taking into consideration of the physical possession over the land, and recommendation has been made for grant of 53 cents of land comprising S.No.445/1A-1 at market value. A further submission has been made that

applications filed by the petitioner-Society for allotment of land has not been considered since necessary information called for from the petitioner-society has not been furnished.

12. Learned counsel appearing for 5th respondent submits that the 5th respondent submitted application for allotment of land which is already in his possession and the Mandal Revenue Officer inspected the site and made recommendation for allotment of 53 cents and the same came to be allotted to the 5th respondent on considering the resolution passed by the Gram Panchayat and thus proceedings impugned in the writ petitions are legal and proper.

13. The petitioner-Society as well as the 5th respondent relied on the resolutions passed by the Gram Panchayat for release of land so as to allot the same to the applicants. No doubt resolution for the release of the land in favour of the petitioner-Society is prior to the resolution for release of the land in favour of 5th respondent. A fact is required to be noted that the petitioner-Society sought for allotment of 50 acres of land and whereas 5th respondent sought for allotment of 53 cents of land.

14. The principal contention of the petitioner society is that the District Collector did not take into account reports submitted by the Mandal Revenue Officer in the year 1993 while recommending the case of the 5th respondent for grant of Ac.0-53 cents of land comprising Survey No. 445/1A-1 of Golagamudi village to the Special Chief Secretary and Chief Commissioner of Land Administration(Revenue) Hyderabad. In elaborating his arguments he refers the notes of inspection of Mandal Revenue Officer, Venkatachalam find at page No.17 of material papers filed along with W.P.No.13444 of 2005 and notification dated 20th March,1991 issued by the Mandal Revenue Officer, Venkatachalam. Inspection note of Mandal Revenue Officer, Venkatachalam, reads as follows:

> "*I have inspected the lands in S.Nos. 444,59,54,445, 499 an extent of Ac. 24-39 cents of Golagamudi h/o Ankepalli village as waste land Poramboke lands. The total extent of Ac.37.11 cents in S.Nos. 444,54,59,499,445. The lands are situated in both sides of Anikepalli to Main Road (i.e. Madra to Culcutta Road.*

15. Notification dated 20-3-1991 as found at Page N.20 of the material papers reads a follows:

> *"In exercise of the powers conferred by the sub-section 2 of Section 67 of Andhra Pradesh Grama Panchayat Act, 1964, with G.O.Ms. No. 647 P.P. Department, dated 20-11-75, the Revenue Divisional Officer, Nellore hereby directing that with effect from the date of publication of this notification in the Nellore District Gazette, the lands specified in the scheduled below vesting in Gram Panchayat of Golagamudi village of Venkatachalam Mandal in Nellore District be excluded from the control of the said Gram Panchayat for purpose of alienation of the said land for development of Bhagawan Venkaiah Venkatachalam Mandal, Nellore District."*

16. Making copious references to the inspection report and the notification, the learned counsel for petitioners' society contends that the land in question has been in possession and enjoyment of the petitioner-society and therefore, grant of Ac.0-53 cents of the land to the 5th respondent is not legal and proper. To show the existing constructions, the petitioner society placed reliance on the reports said to have been sent by the Mandal Revenue Officer in the year 1993. The state of things on ground in Survey No.445 Golagamudi village has been placed on record by the learned Government Pleader for assignment appearing for the respondents No. 1 to 4 and sketch also has been enclosed to the statement. The particulars mentioned in the statement read as follows:

> "The total extent of Sy.No.445 of Golagamudi H/o Anikepalli village, Venkatachalam Mandal, Nellore is Ac. 8-48. It was sub-divided previously as follows:
>
> The classification of land is A.W. Dry
>
> 445/1 – Ac 7-17
>
> 445/2 – Ac. 0-47
>
> 445/3 – Ac. 0-84
>
> _____
>
> Total: Ac. 8-48
>
> _____

Subsequently the sub-division 445/1 was again sub-divided as follows:

445/1A Ac. 3-64

445/1B Ac. 0-83

445/1C Ac. 2-70

_____

Total: Ac. 7-17

_____

Sub-division 445/1A has been sub-divided once again as follows:

445/A1 Ac. 0-53

445/1A2 Ac. 3-11

_____

Total: Ac. 3-64

_____

At present the state of things on ground Sy.No. 445 are as follows:

Sy.No. Total Extent Nature of occupation Extent under

Occupation

445/1A1 Ac. 0-53 Sri Darga Swamy Dharma Ac. 0-53

Sathram and proposed

Kalyanamandapam

(Alienated on payment

of M.V.)

445/1A2 Ac. 3-11 Toilets of Sri Venkaiah

Swamy Ashramam Ac.0-24

(encroachment)

Poojari House of Sri Ac. 0-02

Venkaiah Swamy

Ashramam

(encroachment)

Sri Anjaneya Swamy Ac. 0-06

Temple extension

(encroachment)

Sri Subrahmanya Swamy

Temple (encroachment) Ac. 0-02

School building of Sri

Venkaiah Swamy Ashramam

(encroachment) Ac. 0-14

Chowitry of Sri Venkaiah Ac. 0-08

Swamy Ashramam

(encroachment)

Rest house of Sri Venkaiah

Swamy Ashramam Ac. 0-01

(encroachment)

Thatched houses of Sri

Venkaiah Swamy Ashramam

(encroachment) Ac. 0-04

Vacant site under the

Utility of Sri Venkaiah

Swamy Ashramam

(encroachment) Ac. 2-50

Ac. 3-11

445/1B Ac. 0-83 Road of R & B Depot

Nellore toAnikepalli Ac.0-83

445/1C Ac.2-70 Dining hall and kitchen

of Sri Venkaiah Swamy

Ashramam

(encroachment) Ac.0-16

Existing pathway Ac.0-80

Vacant Site Ac.1-94

Ac. 2-70

445/2 Ac.0-47 Tomb Temple of Sri

Venkaiah Swamy Ac.0-47

445/3 Ac.0-84 Ashramam office etc.

of Sri Venkaiah Swamy Ac.0-84

Grand Total Ac.8-48

All the above lands except the following lands maybe alienated in favour of Sri Bhagavan Venkaiah Swamy Ashramam, since the following lands are alienated under the occupation of others.

Sy.No. Extent Nature of occupation Reason

445/1A1 Ac.0-53 Sri Darga Swamy Dharma Alienated

Satram and proposed on pay of

Kalyana Mandapam M.V.and

Possession

Delivered

445/1A2 Ac.0-06 Sri Anjaneya Swamy Ancient to

temple Extension Sri Bhagavan

Venkaiahswamy

445/1A2 Ac.0-02 Sri Subramanya Already temple

Swamy Temple is in existence

445/1B Ac.0-83 Road of R & B Dept. Public Utility

445/1C Ac.0-60 Existing Pathway Public Utility

Ac.2-04

Total extent of Sy.No. 445 -Ac.8-48

Extent under the occupation of others Ac.2-04

Balance extent available in Sy.No.445

Which can be alienated in O/o Bhagavan

Sri Venkaiah wamy Ashramam Ac.6-46 ”

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17. It is explicit from the above statement that Ac.0-53 cents is in possession of 5th respondent and 5th respondent has sought for allotment of land in his favour at market value. The Grampanchayath, Anikepalli Panchayat passed necessary resolution on 2-1-2005 so as to enable the revenue authorities to consider the application of the 5th respondent for alienation of Ac.0-53 cents of land and there after the Mandal Revenue Officer inspected the land and submitted reports to the higher authorities and the District Collector sent proposals to the Chief Commissioner of Land Administrative, A.P. Hyderabad who issued proceedings impugned in the writ petition. In pursuance of the proceedings impugned in the writ petition, an amount of Rs.1,06,000/- has been remitted by the 5th respondent to the Government under the Head of the Account;

“Major IHead –029 L.R.

Minor Head –101 other receipts

Detailed Head –107 Sale Proceeds of waste land”.

5th respondent also gave an undertaking to the Mandal Revenue Officer to utilize the land for which it has been alienated.

18. Learned counsel appearing for the petitioners’ submits that the proposal of the alienation of the Ac. 0-53 cents of the land in favour of the 5th respondent has been sent contrary to the reports submitted by the Mandal Revenue Officer in the year 1993. What he means to say is the report sent by the then Mandal Revenue Officer in 1993 reflects the details of the land available for allotment and structures existing thereon and that the particulars mentioned in the statement of the present Mandal Revenue Officer are incorrect and they are outcome of the manipulations made by

the 5th respondent at the behest of one Srinivasa Reddy, who is his ardent follower.

19. The scope and extent of judicial review of High Court contained in Article 226 of the Constitution of India would vary from case to case, the nature of order, the relevant statute and also the other relevant factors including the nature of power exercised by the public authorities, namely whether the power is statutory, quasi judicial or administrative. The power of judicial review is not intended to assume supervisory role or done the roles of omnipresent. The power is intended neither to review the governance under the rule of law nor do the Courts step into the areas exclusively reserved by the Supreme lax to the other organ of the State. It is well settled that the Courts, while exercising the power of judicial review, do not sit in appeal over the decisions of administrative bodies.

20. Application for assignment/allotment of lands are required to be disposed in accordance with the Rules framed under A.P. Board Standing Orders. The orders passed under Board Standing Orders are quasi judicial orders vide the decision in Gangappa Vs. State of Madras, AIR 1957 Andhra Pradesh 447. Board Standing Order No.15 deals with grant of land for occupation subject to payment of assessment. Board Standing Order No.21 deals with the procedure for assignment of house site in villages and towns and Board Standing Order No.24 deals with placing State land at the disposal of a person, or institution or a local body. Paragraphs 15 and 18 of B..S.O. No. 15 provide appeal and revision respectively. Application of the parties asking for assignment of lands at the disposal of the Government should be disposed of in accordance with the rules contained by the Board's Standing Orders. It is not an empty formality in providing a hierarchy of authorities in the matter of hearing appeals and revisions. Applications regarding assignment of lands should be disposed of in a quasi judicial manner and even the rules contained in the Board Standing Order direct the disposal of the applications in such a manner. It is trite to refer paras 15 and 18 of Board Standing Orders and they are:

> "*Appeals: From every original decision in darkhast cases whether it is passed by the Tahsildar, the Divisional Officer, or the Collector, one appeal shall be allowed, provided that it be made within 30 days of the date on which the original decision was pronounced or communicated if the appeal is from the Tahsildar to the Divisional Officer or from the Divisional Officer to the Collector, and within 40 days if it be*

from the Collector to the Board. In computing the period of limitation, the day on which the decision appealed against was pronounced or decision shall be excluded. ON all copies issued shall be entered the date of the decision or communication, the date of the application for copy, the date on which the copy was ready for delivery and the date on which the appeal time expires. Any person interested in the matter may appeal. All appeals in darkhast cases should be stamped with a Court fee lable to the value of 5 rupees.

Revision:

1) The order of the authority making the assignment, if no appeal is presented, or of the appellate authority, if an appeal is presented is final and no second appeal shall be admitted. But if at any time within three years of the original or appellate decision, the Collector is satisfied that there has been a material irregularity in the procedure or that the decision was grossly inequitable or that it exceeded the powers of the officer whos passed it or that it was passed under a mistake of fact or owning to fraud or misrepresentation, he may in the case of an order passed by an officer subordinate to him, set aside, cancel or in any way modify the decision. The Board of Revenue may set aside, cancel or in any way modify the decision of an officer subordinate to it within three years if it is satisfied that the decision was grossly inequitable; it may also exercise similar powers without any limit of time where there has been a material irregularity in the procedure or where the decision exceeded the powers of the officer who passed it or where it was passed under a mistake of fact or owing to fraud or misrepresentation. All revision petitions in darkhast cases should be stamped with a Court fee label to the value of two rupees.

2) The State Government, may, at any time, either suo moto or on application made to them, call for and examine the records relating to any decision or order passed or proceeding taken by any authority or office subordinate to them under the preceding sub-paragraph for the purpose of satisfying themselves as to the legality or property of such decision or order or as to the regularity of such proceeding and pass such order in reference thereto as they think fit. The Government may stay the execution of any such decision order or proceeding pending the exercise of their powers under this sub-paragraph in respect thereof".

21. Board Standing Order No. 21 also contains the appeal provision as well as the revision provision. There are enough provisions in the Board Standing Orders providing forum to the aggrieved party to challenge the alienations/assignments. It I not an empty formality in providing a hierarchy of the authorities in the matter of hearing appeals and revisions. There are serious disputes between the parties with regard to factual aspects such as extent of land in their respective occupation and the structure existing thereon. If the order of the primary authority is based on mis-appreciation of factual aspects, the same is required to be rectified either by the appellate authority/revisional authority as provided under the Board's Standing Orders.

22. In the circumstances I deem it appropriate to dispose of the writ petitions giving liberty to the petitioners to challenge the proceedings issued by the 1st respondent by taking recourse to the remedies provided under the A.P. Board Standing Orders. No order as to costs.

Dated: 07-12-2005. (B.Seshasayana Reddy,J)

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THE HONOURABLE SRI JUSTICE

B.SESHASAYANA REDDY

WRIT PETITION NOS.13440 AND 13754 OF 2005

DISPOSED OF ON 07-12-2005